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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,702	01/17/2004	Steve Lewison	SCL002	8457

7590 03/19/2007  
Steve Lewison  
14269 Aspen Avenue  
Prior Lake, MN 55372

EXAMINER
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GILBERT, WILLIAM V

ART UNIT	PAPER NUMBER
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3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/759,702

Applicant(s)

LEWISON, STEVE

Examiner

William V. Gilbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-33 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,8,10,14,15,17,34 and 35 is/are rejected.
- 7) ☒ Claim(s) 3,6,7,9,11,12,13,16,18,19,20-25 and 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

This is a Final Rejection. Claims 1-36 are examined as set forth below.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 34 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 34 and 35 recite the limitation "the hub" in Claim 34, line 16 and Claim 35, line 15. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, 4, 5, 8, 10, 14, 15 and 17** are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (U.S. Patent No. 3,670,471).

Claim 1: Smith discloses a truss span (Fig 5: 11) with at least three chords (13, 15 and 17) in a parallel orientation, a web (21, 23) connecting two adjacent parallel chords corresponding to at least two of the three faces, and a first and a second structural end bracket (37) connecting two adjacent parallel chords defining an open face, and the truss has a tapered profile.

Claim 2: each truss chord is a cylindrical chord.

Claim 4: at least one elongated member (23) providing multiple points between two adjacent parallel chords (each end connection is a point).

Claim 5: a plurality of web plates (Fig. 2: 29) connecting chords.

Claim 8: the parallel chords are equal in length, the web includes a first web (21) connecting the first and second chords, and a second web (23) connecting the second and third

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chords, and the first and second end brackets (37) connect the first and third chords.

Claim 10: Smith discloses a system with a plurality of truss spans (Fig.5) comprising at least three chords (13, 15 and 17), a web (21, 23) connecting two adjacent parallel chords, and two end brackets (37), the spans have a tapered profile and a stacked configuration for nesting (Fig. 5).

Claim 14: the first span is connected in-line to the second truss span (Fig. 6).

Claim 15: each chord is a cylindrically shaped tube, and the first truss span is adapted to be connected to a second truss span by joint systems (Fig. 1: proximate 17).

Claim 17: the bracing (17) is removable.

***Allowable Subject Matter***

3. **Claims 26-33** are allowed.

**Claims 34 and 35** would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

**Claims 3, 6, 7, 9, 11, 12, 13, 16, 18-25 and 36** are objected to as being dependent upon a rejected base claim, but

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would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

4. Applicant's arguments with respect to the Claims have been considered but are moot in view of the new ground(s) of rejection. The new rejection is necessitated by the Applicant's amendment dated 10 January 2007.

#### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tene (U.S. Patent No. 4,907,390); Schipani (U.S. Patent No. 6,672,792); Fisher (U.S. Patent No. 6,026,626); Swan (U.S. Patent No. 5,205,101); Fisher (U.S. Patent No. 6,065,267); DeMeyer (U.S. Patent No. 5,623,786).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be

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reached on 571.272.6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WVG

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16 Mar 07



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Group 3600